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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/445,733	08/29/2000	Victor M. Ilyashenko	B1029/7001	1310

7590

11/05/2003

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EXAMINER

VARGOT, MATHIEU D

ART UNIT

PAPER NUMBER

1732

DATE MAILED: 11/05/2003

16

Please find below and/or attached an Office communication concerning this application or proceeding.

CLO 16

CL

Office Action Summary

Application No.

09/445,733

Applicant(s)

ILYASHENKO

Examiner

M. VARBOS

Group Art Unit

1732

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

☒ Responsive to communication(s) filed on 1/3/03

☒ This action is **FINAL**.

- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 1-73 is/are pending in the application.

Of the above claim(s) 1-30, 45-70, 72 + 73 is/are withdrawn from consideration.

☒ Claim(s) 31-44 is/are allowed.

☒ Claim(s) 71 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Art Unit: 1732

1. Applicant has indicated that an IDS sent in November 8, 2001 was not indicated as having been considered in the first action. The first action included all the IDS forms of which the examiner is aware of. If any others exist, these need to be resubmitted as they are not of record at this time. It is noted that two of the IDS forms sent out in the first office action had only a single reference, as apparently the IDS of November 8, 2001 did. If neither of these is a copy of the IDS in question, it should be resubmitted for consideration and to be made of record.

2. Comments directed to the non-elected claims will not be dealt with further, except to say that the double patenting rejection should have been over claims 31-44, not claims 1-44 as erroneously set forth in the action. Given the filing of the terminal disclaimer, claims 31-44 are now allowable. Applicant is requested to cancel non-elected claims 1-30, 45-70, 72 and 73 to expedite prosecution.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 71 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koike -514 (see Embodiment 1 at columns 16 and 17) essentially for reasons of record.

4. Applicant's arguments filed January 3, 2003 have been fully considered, and while they are persuasive with respect to claims 31-44, they are not persuasive with respect to claim 71.

Art Unit: 1732

Koike -514 discloses forming an optical fiber with an attenuation of less than 500 db/km by making a preform and drawing same, albeit the exact drawing speed is not taught. Note that claim 71 does not require that the sheathing contain a dopant. It is maintained that the exact speed would have been well within the skill level of the art and other than attorney conjecture, there is nothing of record to refute this. Again, a recitation of a minimal value for a parameter which one of ordinary skill in the art would desire to maximize is prime facie obvious over Koike -514.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

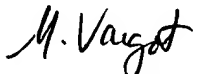
Art Unit: 1732

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Vargot whose telephone number is 703 308-2621.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-0661.

M. Vargot

March 7, 2003


MATHIEU D. VARGOT
PRIMARY EXAMINER
GROUP 1300

3/7/03